

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)
)
)
v.) CRIMINAL ACTION NO.
)
) 2:08cr52-MHT
ANDREW O'NEAL LOWERY)

ORDER

Based on the representations in open court on August 19, 2008, it is ORDERED as follows:

(1) Sentencing for defendant Andrew O'Neal Lowery will resume on October 23, 2008, at 10:00 a.m at the Frank M. Johnson, Jr. United States Courthouse Complex, Courtroom 2FMJ, One Church Street, Montgomery, Alabama.

(2) By September 12, 2008, defendant Lowery is to file a brief that addresses the following issues:

(A) The extent to which the Supreme Court's decision in Begay v. United States, 128 S. Ct. 1581 (2008), interpreting 18 U.S.C. § 924(e), undermines and supercedes the Eleventh Circuit's decision in United States v. Taylor, 489 F.3d 1112 (11th Cir. 2007).

(B) The extent to which the Supreme Court's review of United States v. Chambers, 473 F. 3d 724 (7th Cir. 2007) (certiorari granted, 128 S. Ct. 2046 (2008)), may be relevant to the determination of whether defendant Lowery's state conviction for 3rd degree escape is a "violent felony" for the purposes of 18 U.S.C. § 924(e), and therefore whether defendant Lowery's sentencing should be continued pending a decision in Chambers.

(3) By September 26, 2008, the government is to file a response.

The Court notes that Chambers is set for oral argument before the Supreme Court on November 10, 2008.

DONE, this the 21st day of August, 2008.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE